

Douglas I. Brandon
Vice President -
External Affairs & Law

Fourth Floor
1150 Connecticut Avenue, NW
Washington, DC 20036
Phone: 202-223-9222
Fax: 202-223-9095
Wireless: 202-255-5011
doug.brandon@attws.com

January 17, 2002

Magalie Roman Salas
Office of the Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

**Re : Ex Parte Presentation : WT Docket No. 99-168
Service Rules for the 746-764 and 776-794 MHz Bands
and Revision to Part 27 of the Commission's Rules**

Dear Ms. Salas:

This letter is written in response to the *ex parte* presentation ("Letter") filed by the Wireless Communications Division, Private Radio Section of the Telecommunications Industry Association ("TIA") on November 6, 2001, in the above-referenced rulemaking proceeding.^{1/} TIA's Letter supports, with additional technical detail, the petition for reconsideration ("Petition") submitted by the National Public Safety Telecommunications Council ("NPSTC") in this proceeding on March 7, 2001. As set forth more fully below, AT&T Wireless Services, Inc. ("AWS") urges the Commission to reject TIA's request that the Commission adopt extremely restrictive out-of-band emissions ("OOBE") limits for the 700 MHz band. There is no basis to conclude that such OOBE limits are necessary to protect public safety licensees and, if adopted, they would severely hamper commercial mobile radio service ("CMRS") providers' ability to offer robust and flexible services in the 700 MHz band.

As a procedural matter, the Letter urges the Commission to consider TIA's technical arguments in connection with the Commission's resolution of the Petition. The Petition seeks reconsideration of service rule issues for the 36 megahertz "commercial" portion of the 746-806 MHz band that already have been resolved twice by the Commission on further review.^{2/} Thus, the Letter is highly repetitive of the Petition,

^{1/} See Letter from Mr. Bill Belt, TIA, to Mr. Stan Wiggins, Policy Division, Wireless Telecommunications Bureau, FCC, dated Nov. 6, 2001.

^{2/} As the Petition notes, apart from its initial consideration, the Commission further considered the issues covered by the Letter and the Petition once in June 2000, when it amended its service rules to permit CMRS base station operations in the 777-792 MHz

which itself is highly repetitive of arguments that were fully considered and rejected in the Commission's rulemaking proceeding. Thus, the Letter should be rejected as a procedurally deficient and untimely supplement to the Petition.^{3/}

With regard to the merits of the Letter, TIA promotes the unproven theory, popularized by recent claims related to certain digital wireless systems operating in the 800 MHz frequency band,^{4/} that CMRS base station transmitters are the sole source of interference problems to public safety systems. Thus, TIA supports the Petition's call for more stringent OOB limits and urges the Commission not to permit CMRS base stations to operate in the 777-792 MHz frequency band.^{5/} TIA, however, fails to describe fully another important element to the occasional interference problems that exist between CMRS and public safety radio systems, namely the non-selective nature of the typical public safety mobile receiver. AWS believes that these unsophisticated public safety receivers are the primary contributor to interference problems. Furthermore, the occurrence of CMRS-to-CMRS interference is relatively low and easily managed. If CMRS base stations were solely to blame for the problems identified by TIA, one would expect the CMRS industry to be plagued with interference problems.

The OOB limits specified in the Letter are so stringent that they fail the public safety community's related goal of not placing "an undue burden on the performance of CMRS equipment."^{6/} In particular, AWS estimates that adoption of the Letter's

band, and once in January 2001, when it rejected Motorola, Inc.'s request that the agency reconsider that decision. See Petition at notes 2, 11; see also Service Rules for the 746-764 and 776-794 MHz Bands, Second Memorandum Opinion and Order, 16 FCC Rcd 1239 (2001) ("2nd MO&O"). Resolution of the Petition would require the Commission to consider this issue a third time since its initial First Report and Order in this proceeding.

^{3/} 47 C.F.R. § 1.106(f) (2000) ("The petition for reconsideration and any supplement thereto shall be filed within 30 days from the date of public notice of the final Commission action.") (emphasis added).

^{4/} There are critical differences between the 800 MHz band and the 700 MHz band. For example, unlike the 700 MHz band, public safety systems in the 800 MHz band often employ frequency assignments that are closely "interleaved" with CMRS frequency assignments. See 47 C.F.R. § 90.613 (2000) (800 MHz channelization table). Further, unlike the 800 MHz band, equipment intended for public safety operations in the 700 MHz band must generally use digital modulation. 47 C.F.R. § 90.535(a) (2000).

^{5/} As the Commission correctly observed in the 2nd MO&O, base stations are not materially different from fixed stations, which have always been permitted in the 777-792 MHz band. 2nd MO&O at ¶ 11.

^{6/} Letter at 5. When it considered (and rejected) this claim previously, the Commission noted that public safety advocates should not expect the Commission to hinder the development of CMRS systems instead of requiring public safety systems to "be

proposals would require AWS to attenuate its OOB by a drastic amount, almost three times greater attenuation than the current regulations require. Such a drastic departure from existing regulations would have a severe impact on proposed CMRS systems. Similarly, TIA's proposal that the Commission require CMRS carriers to maintain a power level of -45 dBm at "street level" within 400 meters of any site in any 6.25 kHz band segment in the 764-776 MHz band should be rejected.^{7/} According to AWS's calculations, adoption of TIA's proposed intermodulation remedy would effectively eliminate the use of low-height cell towers, and cripple microcells and in-building distribution systems.

While AWS supports the goal of the public safety community to ensure interference-free operations, that can best be achieved by improving the technical performance of public safety radio systems to account for a modern RF environment, not by drastically and unilaterally degrading the robustness and quality of CMRS systems that service approximately 130 million domestic subscribers.

If you have any questions regarding this matter, please contact the undersigned.

Respectfully submitted,

/s/

Douglas I. Brandon

cc: Stanley P. Wiggins
Bill Belt
Marilyn Ward

designed with safety margins adequate to withstand [commercial transmissions]." 2nd
MO&O at ¶ 7. TIA's Letter continues to advance this illogical concept.

^{7/} Letter at 6.